

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)

HAWAIIAN TELCOM)
SERVICES COMPANY, INC.)

DOCKET NO. 2006-0367

For Approval of Plan to Market)
myChoicesm Bundled Service Plans)
Offered Only in Connection with a)
Qualifying Local Service Package)
And Shortening of the Time Interval)
Specified in HAR § 6-80-35(e).)

DECISION AND ORDER NO. 22985

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DIV. OF CONSUMER ADVOCACY
DEPT. OF COMMERCE AND
CONSUMER AFFAIRS
STATE OF HAWAII

Filed Oct. 27, 2006
At 1:30 o'clock P.M.

Karen Higashi
Chief Clerk of the Commission

ATTEST: A True Copy
KAREN HIGASHI
Chief Clerk, Public Utilities
Commission, State of Hawaii.

K. Higashi

In the Matter of the Application of)
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 HAWAIIAN TELCOM)
 SERVICES COMPANY, INC.)
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 Specified in HAR § 6-80-35(e).)

Decision and Order No. 22985

By this Decision and Order, the commission approves HAWAIIAN TELCOM SERVICES COMPANY, INC.'s ("HTSC") request to market and provide its myChoicesm bundled service plans, effective as of the date of this Decision and Order.

Application

¹See In re Paradise MergerSub, Inc., et al., Docket No. 04-0140, Decision and Order No. 21696, filed on March 16, 2005 ("Decision and Order No. 21696") at 58.

provide wireless telecommunications services on a resold basis.² It was formed upon the merger transaction between certain subsidiaries of Verizon Communications Inc. and an entity now known as Hawaiian Telcom Communications, Inc. ("HT Communications").³

On September 8, 2006, HTSC filed an application for commission approval to offer Hawaii residential consumers its myChoicesm bundled service plans. The myChoicesm bundled service plans would give HTSC's customers the option of selecting various fully competitive as well as non-local services at discounted rates (such as, but not limited to, HTSC's tariffed Call Moresm direct dialed domestic long distance plan)⁴ when they concurrently subscribe to a qualifying tariffed residential local service package offered by HTSC's affiliate, Hawaiian Telcom, Inc. ("HTI")⁵ ("Application").⁶

²See In re Hawaiian Telcom Services Company, Inc., Docket No. 05-0097, Decision and Order No. 21892, filed on June 24, 2005.

³See Decision and Order No. 21696.

⁴HTSC also requests approval of proposed amendments to its Call Moresm plan, which is the only commission tariffed service, included as part of its myChoicesm plan. Proposed amendments to HTSC's Call Moresm tariff are attached to HTSC's Application as Exhibit A.

In addition to Call Moresm, subscribers of myChoicesm can opt to select HTSC's high speed internet service and HTSC's wireless service plan.

⁵HTSC and HTI are wholly owned subsidiaries of HT Communications.

⁶The Application was filed pursuant to Hawaii Revised Statutes ("HRS") § 269-16 and Hawaii Administrative Rules ("HAR") § 6-80-35(e). HTSC served copies of the Application on the DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND

To qualify for myChoicesm, customers must subscribe to HTI's Hawaiian Telcom Go Localsm or Hawaiian Telcom Go Local Plussm plans as set forth in HTI's PUC Tariff No. 20, Section 5.12.19 (collectively, "HTI Qualifying Services"). Subscribers selecting a myChoicesm package plan will pay a Monthly Recurring Charge from \$45.95 to \$83.95 depending on the package they select, which covers HTI's tariff rate and the service provided by HTSC. Any service discount provided to an eligible subscriber under the myChoicesm plan will be borne by HTSC on the fully competitive or non-local services that HTSC will provide and will be recorded on HTSC's separately maintained books and records.

HTSC represents that its proposed myChoicesm package plans will provide customers with telecommunications options that will satisfy the demand for quality services at reduced rates. It further represents, among other things, the following:

1. The proposed myChoicesm bundled offering will not result in improper cross-subsidization since the structure of the proposed offering will not affect HTI's regulated revenues given that subscribers of myChoicesm plans will pay the full tariffed rate for the HTI Qualifying Services selected.
2. The myChoicesm package plans are not discriminatory and will be available to any residential customer who purchases one of the HTI Qualifying Services.

CONSUMER AFFAIRS ("Consumer Advocate"), an ex officio party to this docket, pursuant to HRS § 269-51 and HAR § 6-61-62. No persons moved to intervene or participate without intervention in this docket.

3. The proposed myChoicesm bundled offering is priced in accordance with all federal and State pricing requirements and closely resembles other Verizon Long Distance bundled services adopted by HTI and bundled services offered by its competitors.

B.

Consumer Advocate's Position

On September 18, 2006, the Consumer Advocate filed its Statement of Position ("CA's Statement of Position") in which it stated that it does not object to approval of HTSC's Application.⁷ According to the Consumer Advocate, the costs for the fully or partially competitive services are not subsidized by the noncompetitive services of the plan and approval of the plan is in the public interest.⁸

⁷Specifically, the Consumer Advocate stated "that it does not object to approval of (1) the proposed marketing of the myChoicesm bundled service plan[s]; (2) interim authority effective September 24, 2006[,] to offer myChoicesm; and (3) HTSC's amendment to its Call Moresm tariff[.]" See CA's Statement of Position at 6.

⁸The Consumer Advocate's position regarding Interim Approval was conditioned on HTSC submitting a list of the various services that can be considered for inclusion in the bundled service offering prior to receiving final commission approval of the plan. In response, HTSC submitted a letter dated and filed on September 20, 2006, listing the services that are included within the bundled service offering, and noting that it anticipates expanding the list of service options available for inclusion in myChoicesm in the future, and that any modifications to its Call Moresm plan and additional service categories to its myChoicesm bundled service will be submitted for the commission's review and approval.

Specifically, based on HTSC's assertion "that full tariffed rates for the noncompetitive HTI Qualifying Services will be received and paid to HTI, and any discount provided will be borne and recorded on HTSC's separately maintained books and accounting records, the Consumer Advocate finds that the local noncompetitive services involved in the myChoicesm plan will not subsidize the competitive services of the plan."⁹ Moreover, the Consumer Advocate argues that approval of the myChoicesm bundled offering would be in the public interest since:

1. HTI's general ratepayers will not be affected adversely since the competitive services of the plan would not be subsidized by the noncompetitive services of the plan.
2. With myChoicesm, HTSC is proposing to compete with other providers that offer similar bundled services which will enhance competition in the State's telecommunications market by strengthening HTSC's offering in the market through which consumers would benefit by having more diverse offerings to meet their specific needs.
3. The proposed myChoicesm offering will be available to any residential customer who purchases HTI Qualifying Services, thus, the plan will not discriminate.

⁹See CA's Statement of Position at 3-4 (footnote omitted).

C.

Interim Approval

In its Application, HTSC requested "that pending the issuance of the [c]ommission's final order [] the [c]ommission shorten the thirty (30) day interval specified in HAR [§] 6-80-35(e) and grant HTSC interim authority to begin offering the myChoicesm plan to customers starting on September 24, 2006" ("Interim Approval").¹⁰

On September 22, 2006, the commission issued Interim Order No. 22889, waiving the thirty (30) day notice requirements of HRS § 269-16(b) and HAR § 6-80-35(e) and conditionally approving HTSC's request for Interim Approval, effective September 24, 2006.¹¹

II.

Discussion

HRS § 269-16(b) states, in pertinent part:

No rate, fare, charge, classification, schedule, rule, or practice, other than one established pursuant to an automatic rate adjustment clause previously approved by the commission, shall be established, abandoned, modified, or departed from by any public utility, except after thirty days' notice as prescribed in section 269-12(b) to the commission and prior approval by the commission for any increases in rates, fares, or charges. The commission may, in its discretion and for good cause shown, allow any rate, fare, charge, classification, schedule, rule, or practice to be established, abandoned, modified, or departed from

¹⁰See Application at 2.

¹¹On September 29, 2006, HTSC filed revised tariff pages in accordance with Interim Order No. 22889.

upon notice less than that provided for in section 269-12(b)

HRS § 269-16(b) (emphasis added).

In addition, HAR § 6-80-35(e) states:

A telecommunications carrier may not offer a noncompetitive telecommunications service jointly with any fully or partially competitive service or with any interstate, international, or other service not within the jurisdiction of the commission, except upon the commission's express approval. The commission's approval is subject to a satisfactory showing by the telecommunications carrier seeking to offer such joint services that the costs of the fully or partially competitive service or the costs of the interstate, international, or other non-jurisdictional service are not subsidized by the noncompetitive service. An application for approval to offer any such joint services must be filed with the commission not less than thirty days before the joint services are marketed, sold, or advertised.¹²

HAR § 6-80-35(e) (emphasis added).

Here, given HTSC's representations, it appears that approval of HTSC's myChoicesm bundled service offering is reasonable and in the public interest. In particular, it appears that the costs of the fully or partially competitive services of the plans will not be subsidized by the services of the plans that are classified as noncompetitive. Accordingly, the commission finds that HTSC's myChoicesm plans, as described in the

¹²Also, HRS § 269-39(a) and HAR § 6-80-35(a) specifically prohibits the cross-subsidization of a telecommunications carrier's competitive services by its noncompetitive service offerings. HAR § 6-80-35(b) clarifies that cross-subsidization "is deemed to have occurred if: (1) [a]ny fully competitive or partially competitive service is priced below the total service long run incremental cost of providing the service; (2) [f]ully competitive services, taken as a whole, fail to cover their direct and allocated joint and common costs; or (3) [i]f fully competitive and partially competitive services, taken as a whole, fail to cover the direct and allocated joint and common costs."

Application, satisfies the requirements of HAR § 6-80-35(e). Moreover, the commission recognizes that approval of the plan should benefit Hawaii customers since it will provide them with additional alternatives to meet their diverse communications needs at competitive prices. Thus, the commission will allow HTSC to continue to offer its myChoicesm plans on a permanent basis, as of the date of this Decision and Order.

Based on the above, the commission concludes that HTSC's request to market and provide its myChoicesm bundled service plans should be approved, effective as of the date of this Decision and Order. Accordingly, the commission concludes that HTSC's proposed amendments to its Call Moresm tariff, which HTSC attached as Exhibit A to the Application, should also be approved, effective as of the date of this Decision and Order.

III.

Orders

THE COMMISSION ORDERS:


1. HTSC's myChoicesm bundled service plans, as described in the Application, and the proposed changes to its Call Moresm tariff, which it attached as Exhibit A to the Application, are approved, effective as of the date of this Decision and Order.

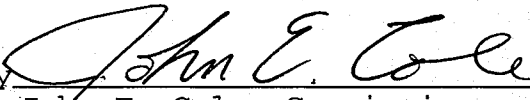
2. Within seven (7) days of the date of this Decision and Order, HTSC shall file amended tariff sheets consistent with the commission's decision herein and reflecting the appropriate issued and effective dates.

DONE at Honolulu, Hawaii

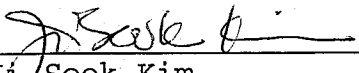
OCT 27 2006

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By 
John E. Cole, Commissioner

APPROVED AS TO FORM:


Ji Sook Kim
Commission Counsel

2006-0367.sl

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 22985 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

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DATED: OCT 27 2006